

DISCUSSION RESPONSE

## May it please the Court – A danced pleading

RAPHAEL SCHÄFER — 11 March, 2015



A response to the posts by [Miriam Aziz](#) and [Mareike Riedel](#)

Raphael Schäfer

In her latest piece, Miriam Aziz elaborates on the similarities between (international) law and dance, drawing attention to the “perfect line”. After all, every single human discipline is an endless strive for perfection: we see it dominantly in sports, but it can also be seen in the arts. So why should there be no space for this kind of perfection and its counterpart – creativity – in law?

Mareike Riedel focuses in her response to Miriam on the comparison of law and poetry. She correctly points out that “law is an attempt to make sense of the world and of human experience through language.” It has, however, to face the problem of “arbitrariness of language” and the “subjectivity of interpretation and perception”. In this assignment, I would like to deepen Miriam’s approach by highlighting the systemic connection between dance and legal presentation from a practical perspective and present dance – more than literature – as an unique means of “translating” argumentation on a meta-level beyond the inadequacy of language.

As a Moot Court Coach it is my foremost task to impart the “art” of conducting a convincing pleading to my students. Tension, stage fright and mechanical recitals of the memorials are typical companions which need to be intercepted. This goal can – to my understanding – best be reached if the students internalise their pleading, i.e. adopting it as their very own personal piece, drawing on the empathy they feel for the case. Just as “the ‘perfect line’ in ballet refers to the lines of perfect alignment and placement of the body” it refers in a pleading to a self-assured appearance, experienced interaction with the Court and quick-witted reactions to objections, becoming thus a “perfect line” of convincing legal presentation.

Court trials – especially in common law countries with their strong formalities – correspond in many aspects to theatrical performances. When you are before the Court you are on stage presenting your personal piece – your pleading. As both law and arts, especially dance, aim at bringing order to chaos, it is useful to clarify about the key elements of performing arts: staging of an impalpable artwork. As soon as it builds up it is already vanishing, leaving nothing but a delicate impression on the audience’s mind. Contrary to visual arts, the artist does not create a material work as a legacy to later viewers. Their only means is the mastery of a fragile moment or, as Schiller put it in his play Wallenstein: “*Dem Mimen flicht die Nachwelt keine Kränze, drum muss er [...] den Augenblick, der sein*

ist, ganz erfüllen [...]”

The bench is your audience, the applicant respectively the respondent your counterpart. You are standing in the spotlight, you are the principal performer. The curtain rises, all eyes are set on you. “May it please the Court” and your performance begins. Just as the artist uses every single inch of their body, contracting the most external muscle fibres, a counsel needs to be aware of the proper use of his/her main tools before the Court: voice and body-language. Therefore, it was a great pleasure to attend Miriam’s workshop “Law and Dance” with the Moot Court Team and to gain a firsthand experience of her approach. She raised our awareness regarding the above mentioned points and gave us techniques for preparing both body and mind for a (legal) presentation enabling them to deliver a full performance at point. In order to make the podium your stage, you need to use them calculatedly and be aware of their importance. Commonly, counsels focus – even though with good reason – on convincing legal arguments; simultaneously, however, neglecting their means of imparting it. Like stage artists need to warm up their muscles and their voice, the same applies to counsels.

Of course, you can read about this in every guide on how to give a presentation. What is spelled out, however, and new in Miriam’s approach is the unique connection to ballet: “Nothing is more revealing than movement” or as Nietzsche wrote in his masterpiece *Also sprach Zarathustra*: “Nur im Tanze weiß ich der höchsten Dinge Gleichnis zu reden.” Just as the “implementation of international legal norms” is the presentation of legal reasoning “an act of interpretation which is inherently creative.” Through dance, you let your feelings and thoughts flow, behaving both vulnerable and strong in the very same moment, thereby creating an atmosphere of persuasion. The aim of Miriam’s approach is to transmit this feeling of self-assured appearance and manner to legal presentation. Both Miriam and Mareike search in their contributions for structural commonalities (Miriam) respectively a shared grammar (Mareike) between the different legal cultures or even of human language. The bottom line is that we are facing (again) the Faustian pursuit “*Daß ich erkenne, was die Welt im Innersten zusammenhält*” and aching to overcome the biblical confusion of tongues (“Go to, let us go down, and there confound their language, that they may not understand one another’s speech”; Genesis 11, 7). This is especially important regarding pleadings before international courts as the confusion of languages and legal cultures is inherent to them. That is the reason why the ICJ Statute states in Art. 3(1) that “[t]he Court shall consist of fifteen members, no two of whom may be nationals of the same state” and in Art. 9 that “in the body as a whole the representation of the main forms of civilization and of the principal legal systems of the world should be assured.”

And indeed, there are surprisingly many similarities between dance and legal presentation: Most notably, you have to fill out the “*temps*” and “*scène*” given to you and thereby keep the “*balance*” between storytelling and legal reasoning. The walk to the podium is your “*entrée*”, your position “*en face*” to the bench. The actual pleading is your “*représentation*”, a smooth “*glissade*” connecting the arguments. You can lead from argument to argument using either “*temps liés*” or “*grand jetés*” if you need to take bigger steps. You can present strong arguments as a “*grand battement jeté*”, stay with them “*en tournant*” or even highlight it using a “*tour en l’air*”. If you notice that your argument does not have the desired impact, you need to improvise – spontaneously creating movement: “*Battement développé*”, or another variation, e.g. “*fondus, frappés, or tendus*” – there are a variety of possibilities. If you still need to change your approach, you can just move from one foot to the other – “*jeté sauté*” – and start again. The final “thank you” is your “*reverence*” and concludes your presentation. The advantage of ballet is the transfer of thoughts through a language common to every human being: emotion. “It is translation that reveals the kinship, the relatedness of all languages. All languages mean and refer to the same things and concepts”, cites Mareike Walter Benjamin. I suggest that dance – in a theoretical understanding – could serve as lingua franca of human expression.

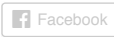
Of course, this does not mean you should literally dance before the Court. As your possibilities of moving before the Court are highly limited, you need to transfer this movement to your voice and

style of presentation, staging a dance in your audiences mind. You should feel like a dancer when pleading, being aware of the fact that you are in control of your pleading to such a degree that you could actually dance it. Radiate this consciousness and the Court will be pleased.

Raphael Schäfer is working as a research fellow at the Max Planck Institute for Comparative Public Law and International Law

ISSN 2510-2567

**Tags:** International Courts, Law and Dance, Moot Court



#### Related

In Search of a Shared Grammar:  
Why Law Is (also) like Poetry.  
23 February, 2015  
In "Discussion"

Law as Ballet: a global pas de deux  
18 February, 2015  
In "Discussion"

The Proportionality Critique Still  
Stands  
12 August, 2015  
In "Discussion"

PREVIOUS POST



Palestine's statehood and its  
accession to the Rome Statute

NEXT POST



Labors of memory and the post-  
conflict economy

## 2 Comments

### LAW AS BALLE: A GLOBAL PAS DE DEUX | VÖLKERRECHTSBLOG

11 March, 2015 at 08:23 (Edit) – Reply

[...] response to this text by Mareike Riedel can be found here and here is another response by Raphael [...]

### IN SEARCH OF A SHARED GRAMMAR: WHY LAW IS (ALSO) LIKE POETRY. | VÖLKERRECHTSBLOG

11 March, 2015 at 08:25 (Edit) – Reply

[...] A response to this post by Raphael Schäfer can be found here. [...]

Leave a reply

Logged in as ajv2016. Log out?

SUBMIT COMMENT

- ☐ Notify me of follow-up comments by email.
- ☐ Notify me of new posts by email.